

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LORA BRAND)
Plaintiff,) Case No.: 2:20-cv-02219-NJK
v.) ORDER GRANTING
ANDREW SAUL,) UNOPPOSED MOTION FOR EXTENSION
Commissioner of Social Security,) OF TIME (THIRD REQUEST)
Defendant.)

Defendant, Andrew Saul, Commissioner of Social Security (the “Commissioner”), by and through his undersigned attorneys, hereby moves for a 60-day extension of time to file Defendant’s Electronic Certified Administrative Record and Answer to Plaintiff’s Complaint. Defendant’s Electronic Certified Administrative Record and Answer to Plaintiff’s Complaint are due to be filed **third** by June 7, 2021. This is the Commissioner’s **first** request for an extension.

Defendant makes this request in good faith and for good cause, because the CAR, which must be filed with the Answer and is necessary to adjudicate the case, is not yet available. The public health emergency pandemic caused by COVID-19 has significantly impacted operations in

1 the Social Security Administration's Office of Appellate Operations (OAO) in Falls Church,
2 Virginia, which is responsible for producing the CAR that must be filed with the Answer, per 42
3 U.S.C. §§ 405(g) and (h). As detailed in the attached declaration from Jebby Rasputnis, Executive
4 Director of the OAO, beginning mid-March 2020, OAO restricted physical access to the Falls
5 Church building, which impacted the production of CARs because physical access was previously
6 required to produce CARs. OAO has since developed and employed a new business process to
7 produce CARs. Much of the difficulty in producing CARs stemmed from the old process of
8 transmitting hearing recordings to vendors for transcription, how the vendors transcribed the
9 recordings, and how the vendors provided the completed transcripts to OAO. OAO changed this
10 process by reworking how the audio files are submitted, seeking additional vendor capacity, and
11 increasing in-house transcription capacity. With these changes, OAO is now able to produce more
12 than 700 transcripts a week, a significant increase over the pre-COVID-19 average of 300–400
13 hearing transcripts a week.

14 Despite these improvements, OAO still faces a significant backlog of cases due to the
15 combined effects of pandemic-related disruption and a marked increase in district court filings (up
16 almost 800 cases per month, a 54% increase). Overall, the timeframe for delivering a CAR in an
17 individual case has improved, and the current average processing time is 139 days. Because of this,
18 OAO is making progress in its backlog of cases. At the end of January 2021, OAO had 11,109
19 pending cases. As of April 26, 2021, OAO had 8,853 pending cases, representing a decrease in our
20 backlog of more than 2,250 cases over the last nearly three months. OAO continues to work on
21 increasing productivity by collaborating with our vendors and searching out and utilizing
22 technological enhancements. Defendant asks this Court for its continued patience as OAO works to
23 increase its efficiency and production of CARs, reduce the current backlog, and address rising court
24 case filings. Counsel for Defendant further states that the Office of General Counsel (OGC) is
25 monitoring receipt of transcripts on a daily basis and is committed to filing Answers as soon as
26 practicable upon receipt and review of the administrative records.

1 Given the volume of pending cases, Defendant requests an extension in which to respond to
2 the Complaint until August 6, 2021. If Defendant is unable to produce the certified administrative
3 record necessary to file an Answer in accordance with this Order, Defendant shall request an
4 additional extension prior to the due date.

5 The undersigned affirms that opposing counsel does not object to the requested extension.

6 It is therefore respectfully requested that Defendant be granted an extension of time to file
7 the CAR and answer to Plaintiff's Complaint, through and including August 6, 2021.

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10 Dated: May 27, 2021

11 Respectfully submitted

12 CHRISTOPHER CHIOU
13 Acting United States Attorney

14 /s/ Marcelo Illarmo
15 MARCELO ILLARMO
16 Special Assistant United States Attorney

17 IT IS SO ORDERED:

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19 _____
20 UNITED STATES MAGISTRATE JUDGE
21 May 27, 2021
22 DATED: _____

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